IDEA TIMELINES



Objectives

- Identify the timeline requirements under the IDEA 2004 statute
- Understand the timelines in dispute resolution procedures
- Learn which timelines still apply from the 1999 Utah Special Education Rules

Child Find

Completion period in private schools. Child find process must be completed in private schools within district boundaries in a time frame comparable to that of other students attending public schools in the LEA. (§300.301)

Prior Written Notice

- Prior written notice must be given to parents in a reasonable time before LEA takes or refuses to take an action. (§300.503)
- Procedural safeguards notice (Parents' Rights) must be given to parents only one time a year, except:
 - Always upon initial referral
 - Always upon request for evaluation
 - Always upon receipt of formal state complaint
 - Always upon parent request for copy

Initial referral

There is no time line between the referral and the initiation of the process. Stuff happens....?????

Evaluation

Initial (§300.301)

- Evaluation and eligibility determination must be completed within 60 days after parental consent is received by the school.
- Unless state establishes a different (shorter) time frame
- Exceptions to timeframe (§300.301)
 - Parent fails to produce child; transfer when process started

Reevaluation (§300.303)

- Once every 3 years
- Unless LEA and parent agree that reevalulation is unnecessary
- Must still <u>review existing data and determine continuing eligibilty</u>

Independent Educational Evaluation

 Public agency may not impose timelines for IEE at public expense (300.502)

Eligibility

- Start eligibility evaluation within reasonable time (about 10 calendar days) of receiving consent (Utah State Board of Education Special Education Rules)
- Unless regular education interventions are not yet documented, but no undue delay
- Complete eligibility determination within 60 calendar days of receipt of consent for evaluation

Initial IEP

- IEP must be developed within 30 calendar days after eligibility has been determined
- Services begin as soon as possible after IEP development.
 - Short delays to arrange services are permitted

Transfer students

- Previous agency must promptly respond to request for records
- Evaluations that begin in one LEA and continue in another...
 - Exceptions to 60-day eligibility determination rule...
 - if sufficient progress is being made 60 days can be passed.
 - Child enrolls in new LEA after relevant timeframe has begun
 - If parent and LEA agree to specific timeframe

Change of Placement

- Graduation with high school diploma
 - Requires prior written notice 45 days prior to graduation
- Exiting at age 22 (UCA 53A-15-301)
 - If 22nd birthday on/or before Dec. 31, exit first day of school's winter break
 - If 22nd birthday on/or after Jan.1, exit last day of school year.
 - Notice not required.

Discipline

- 10 day rule
 - A student under IEP may be excluded from school for up to10 school days during the year without services
 - On the 11th day student must receive FAPE
- A student may be removed to a different setting for up to 45 school days if the removal is due to special circumstances (safe school), as long as FAPE is provided
- Removal = time away from access to special education and related services. Note that time out and ISS count toward the 10 days unless all IEP services are provided.

Request for Due Process Hearing

Impartial hearing must be requested by parent or agency within 2 years of date of alleged violation of IDEA (FR 35872)

Due process

- LEA may challenge sufficiency of due process complaint; not later than 5 days before due process filed; DPHO determines sufficiency within 15 days.
- Resolution session scheduled within 15 days, completed, successful or not, within 30 days of sufficiency determination.
- DPHO decision within 45 days
- 90 days from date of DPHO decision to file a civil action

Complaints and Mediation

Formal state complaint

- Tier 1: LEA investigate and decision within 30 days
- Parent may appeal within 10 days of decision
- SEA investigate and decision within 60 days of original filing date

Mediation

Completed in "timely manner"

Destruction of Information (300.624)

- Personally identifiable information can be destroyed when no longer needed as long as the parent/student age 18 informed
- SpEd file may be given to parent/student age 18 and must be destroyed at the request of the parents.
 - Exception: demographics, grades, attendance, classes, grade level/year completed can be maintained without time limitations